APPENDIX A

[Filed May 6, 1968]

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,177 September Term, 1967

Godfrey P. Schmidt, *Civil 772-63*

Appellant

v.

Joseph S. McCarthy and
Seymour J. Spelman,

Appellees.

Appeal from the United States District Court for the District of Columbia.

Before: Bazelon, Chief Judge, Fahy, Senior Circuit Judge, and Wright, Circuit Judge.

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof It is ordered and adjudged by this Court that the judgment———of the District Court appealed from in this cause be, and it is hereby, affirmed, for the reason set forth in the attached opinion.

Per Curiam

Dated: May 6, 1968

APPENDIX B

[Filed May 6, 1968]

[Not to be printed or submitted to West for publication.]

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21177

Godfrey P. Schmidt, Appellant

v.

Joseph S. McCarthy, and Seymour J. Spelman, Appellees

Appeal from the United States District Court for the District of Columbia

---

Decided May 6, 1968

Mr. Cornelius H. Doherty for Appellant.

Mr. Seymour J. Spelman, with whom *Mr. Joseph S. McCarthy* was on the brief, for appellees.

Before BAZELON, *Chief Judge,* and FAHY, *Senior Circuit Judge,* and WRIGHT, *Circuit Judge.*

PER CURIAM: The question is whether, contrary to the decision of the District Court, appellant was entitled to damages, in the form of interest, for the allegedly wrongful suing out by the individual appellees of an attachment before judgment. Without determining whether the attachment was wrongfully sued out, we affirm the judgment of the District Court on the ground that Appellant was not damaged by the attachment as claimed because the property attached was subject to the superior lien of a levy for unpaid taxes of appellant served by the Internal Revenue Service upon

the garnishee prior to appellees' attachment. Deprivation of the use of the fund accordingly was not attributable to the attachment sued out by appellees.

Affirmed.